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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,889	02/04/2004	Dean J. Richtsmeier	200313857-1	5369
22879 7590 12/13/2007 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER KAPLAN, HAL IRA	
			ART UNIT 2836	PAPER NUMBER
			NOTIFICATION DATE 12/13/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/772,889	Applicant(s) RICHTSMEIER ET AL.	
	Examiner Hal I. Kaplan	Art Unit 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 and 38-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 and 38-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. For examination purposes, it has been assumed that the amendments to claims 25 and 32, and the addition of claim 41, referred to in the Remarks dated November 12, 2007, refer to the amendments submitted on June 7, 2007, in response to the Office action dated March 8, 2007, and considered in the Office action dated September 12, 2007, as no claims were amended in Applicant's response dated November 12, 2007. It has also been assumed that only claim 42 has been added.

Claim Objections

2. Claim 42 is objected to because of the following informalities: Claim 42, line 2, "first aid" should be "first state". Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
6. Claims 1, 2, 5-10, 14-16, 18, 20-28, 30, 31, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over the US patent of Chu (6,774,509) in view of the US patent of Bartok (6,459,060).

As to claims 1, 22, and 25, Chu discloses an electronic device comprising a face (12); a switch (110) configured such that successive actuations of the switch (110) actuates the device between a first state (on) and a second state (off); and a switch actuation mechanism (142, 143) configured to actuate against a point of contact (111) of the switch a first time in response to a first manual input along the face (12) to actuate the device to the first state (on) and to actuate against the same point of contact of the switch a second time in response to a second manual input along the face (12) to actuate the device to the second state (off) (see column 4, lines 16-18 and 35-48;

column 5, lines 39-49; and Figures 1 and 2). Chu does not disclose the two inputs having a characteristic, other than time at which they are performed, distinct from each other.

Bartok discloses an electric device comprising a face (see Figure 3); a switch (138,112,120,122) configured such that successive actuations of the switch actuates the device between a first state and a second state; and a switch actuation mechanism (108,124), wherein the second input has at least one characteristic (entered in a different location), other than time at which it is performed, distinct from the first input (see column 3, lines 1-53; column 3, line 64 - column 4, line 3; column 4, lines 58-67; column 5, line 66 - column 6, line 10; and Figures 3 and 5). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a single point of contact with a two-surface switch face like that of Bartok, because a single-point-of-contact construction is simpler than a two-point-of-contact construction, and a two-surface switch (e.g. with different markings or texture for ON and OFF) would make it easier for a user with poor vision to distinguish between the two functions.

As to claim 2, a function is performed when the device of Chu is in a first state (on) and discontinued when the device is in a second state (off) (see column 4, lines 23-26).

As to claim 5, the switch actuation mechanism (108) of Bartok includes a first movable surface and a second movable surface (protrusions - see column 3, lines 50-53 and Figure 3) and the first input includes moving the first movable surface and the second input includes moving the second movable surface.

As to claims 6 and 7, the movable surfaces of Bartok are depressible (see column 3, lines 50-53 and Figure 3).

As to claim 8, the first surface and the second surface of Bartok are spaced from one another along the face (see Figure 3).

As to claims 9 and 10, the movable surfaces of Bartok have different indicia (shape and texture) (see Figure 3).

As to claims 14 and 16, Chu discloses an extension (142) coupled to the button (141) and linearly movable relative to the switch (110) (see column 5, lines 39-49).

As to claim 15, Chu discloses a guide (145) guiding linear movement of the extension (142) relative to the switch (110) (see column 5, lines 39-49).

As to claims 18, 28, and 30, the actuation mechanism (108, 124) of Bartok includes an actuation member (108) pivotally supported along the face (110), wherein the first input includes pivoting the actuation member (108) in a first direction and wherein the second input includes pivoting the actuation member (108) in a second direction (see column 3, lines 45-53).

As to claims 20, 23, and 31, the first and second inputs of Bartok are parallel to each other (although the rocker rotates, the movable surfaces are pressed straight down and are thus parallel to each other) (see Figures 3 and 4).

As to claims 21 and 24, the on and off inputs of Chu are identical, other than the time at which they are performed (see column 4, lines 23-26 and 35-48 and Figure 2).

As to claims 26 and 27, Chu discloses the step of applying an input including depressing an actuation member (144) operably coupled to the switch (see column 5, lines 43-49 and Figure 2).

As to claim 40, Chu discloses a resilient depressible actuator (142-145), wherein a same portion of the actuator is depressed in response to both the first input and the second input (see column 4, lines 23-26 and 35-48; column 5, lines 39-49; and Figure 2).

7. Claims 3, 4, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of Bartok as applied to claims 1 and 2 above, and further in view of the US patent of Downing et al. (6,075,925).

As to claim 3, Chu in view of Bartok disclose all of the claimed features, as set forth above, except for the claimed print medium. Downing, drawn to a control panel for image forming devices, discloses an image forming device wherein printing upon a print medium is performed when the device is in a first state and discontinued when the device is in a second state (see column 3, lines 32-36 and column 5, lines 20-24). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the switching device of Chu in view of Bartok in the image forming device of Downing, because the switching device of Bartok insures a reliable return of the contact to a neutral off position (see Bartok, column 2, lines 26-32). In addition, the recitation of claim 3 is an intended use recitation, and it has been held that an intended use recitation does not patentably distinguish over the prior art. *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 (Fed. Cir. 1988). See MPEP §2144.07.

As to claim 4, the switch actuation mechanism (108) of Bartok includes a first movable surface and a second movable surface (protrusions - see column 3, lines 50-53 and Figure 3) and the first input includes moving the first movable surface and the second input includes moving the second movable surface.

As to claim 19, neither Chu nor Bartok nor Downing specifically disclose an imaging material dispensing device. However, Downing discloses a laser printer (100), and it is inherent that a laser printer comprises an imaging material dispensing device (toner cartridge). Downing also discloses a controller (20) coupled to a switch (15), wherein the dispensing device dispenses imaging material and discontinues dispensing imaging material in response to the control signals (see column 5, lines 42-45).

8. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of Bartok as applied to claim 5 above, and further in view of the US patent of Parks et al. (5,877,746).

As to claims 9-13, Chu in view of Bartok disclose all of the claimed features, as set forth above, except for the first movable surface and the second movable surface having distinct indicia. Parks, drawn to a user interface for all-in-one integrated office system, discloses two buttons (22,23) with distinct indicia (Start,Stop), wherein the Start button is green and the Stop button is red (see column 13, lines 6-18). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the device of Chu in view of Bartok with green and red start and stop buttons, as taught by Parks, so that a novice user can determine which button to press to perform a given function and be able to stop the device in an emergency. In addition, the selection of

green and red as the colors is a design decision based upon the device's intended use and not a patentable distinction. See MPEP §2144.04.

9. Claims 17, 29, 35, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of Bartok, as applied to claims 1, 28, and 32 above, and further in view of the US patent of Feaster (4,191,867).

As to claims 17, 29, 35, and 41, Chu in view of Bartok disclose all of the claimed features, as set forth above, except for an actuation member slidable along the face. Feaster discloses a switch comprising an actuation member (209) slidable along the face (207) of the switch, wherein a first input includes sliding the actuation member in a first direction (to the right) and a second input includes sliding the actuation member in a second direction (to the left) along a substantially common plane (see column 5, lines 10-15 and Figure 11). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have constructed the switch of Chu in view of Bartok with a slidable actuation member instead of a button or rocker, because people who may be unable to push a button due to a physical disability can often easily slide a slidable actuation member and will thus be able to easily use the switch.

As to claim 42, Chu discloses a switch (110) configured such that identical successive actuations of the switch (110) actuates the device between a first state (on) and a second state (off) (see column 4, lines 16-18 and 35-48; column 5, lines 39-49; and Figures 1 and 2).

10. Claims 32-34, 36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of Bartok, and further in view of the US patent of Mori et al. (6,337,961).

As to claims 32-34, 36, and 38, Chu in view of Bartok disclose all of the claimed features, as set forth above, except for an image forming engine. Chu discloses a post (142) operably coupled to the switch to apply an actuating force to the switch, wherein the movement of the input surface (141) linearly moves the post (142) along an axis against the switch to actuate the switch to the first state or the second state (see column 5, lines 39-49 and Figure 2). Mori, drawn to a print control method and apparatus, and printer, discloses an image forming engine (17) actuatable between a first state and a second state (see column 4, lines 49-56). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the switch of Chu in view of Bartok in a printer with an image forming engine, because it would be easier for the user to determine that the switch has been toggled and the device is working properly.

11. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chu in view of Bartok and Mori, as applied to claim 32 above, and further in view of Parks.

As to claim 39, Chu in view of Bartok and Mori disclose all of the claimed features, as set forth above, except for the distinct associated indicia. Parks discloses two buttons (22,23) with distinct indicia (Start,Stop), wherein the Start button is green and the Stop button is red (see column 13, lines 6-18). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used green and red

start and stop buttons of the device of Chu in view of Bartok and Mori, so that a novice user can determine which button to press to perform a given function.

Response to Arguments

12. In the Remarks dated November 12, 2007, the Applicant frequently refers to "Jill", "Bob", and "Ryan" references. No such references were cited in any of the rejections in the Office actions dated March 8, 2007, and September 12, 2007. For examination purposes, it has been assumed that the "Jill" reference refers to Chu, "Bob" refers to Bartok (or Heydner with regard to the rejection of claims 14-16 and 20 in the Office action dated March 8, 2007 which was identified as moot in the Office action of September 12, 2007), and "Ryan" (mentioned with regard to the rejection of claim 1) also refers to Chu.

13. Applicant's arguments filed November 12, 2007, with respect to the rejections of claims 1, 2, 5-10, 14-16, 18, 20-28, 30, 31, and 40 have been fully considered but they are not persuasive.

Applicant argues that the combination of Chu and Bartok is improper because (1) the cited motivation lacks merit and (2) the combination would destroy the intended function and principle of operation of each of the combined references. The Examiner respectfully traverses. Applying a two surface face to a single point of contact switch would not have destroyed the intended function and principle of operation of each of the references, and the cited motivation has merit. In fact, since both surfaces of the face of the single point of contact switch of Chu would actuate on the same point of contact via the same actuation mechanism, the addition of the second surface would simply add

a second point of actuation to the switch, the second point of actuation functioning the same as the first (i.e. pressing the first surface twice would perform the same sequence of functions as pressing the first surface once followed by pressing the second surface), thus allowing the switch to be actuated from two different locations (the two surfaces). Therefore, the intended function and principle of Chu would be preserved if a face with two surfaces was used. The two surfaces could be marked with different symbols to indicate functions (e.g. ON and OFF), or provided with different textures, in either case making it easier for a user to distinguish between the two functions.

In addition, the Applicant states that the Office action characterized the rocking contact (138) of Bartok as the switch. The Office action characterized the rocking contact (138) of Bartok as only part of the switch (along with features 112, 120, and 122). For examination purposes, it has been assumed that the "Office action" that the Applicant is referring to is the Office action dated September 12, 2007, and not the Office action dated March 8, 2007 (both Office actions are referred to in the Remarks, but this argument did not appear in the Applicant's Remarks dated June 7, 2007, in response to the March 8, 2007 Office action).

14. Applicant's arguments with respect to claims 3, 4, 9-13, 19, 32-34, 36, 38, and 39 were considered in response to the Office action dated March 8, 2007, and are moot in view of the new ground(s) of rejection presented in the Office action dated September 12, 2007, and maintained in the present Office action.

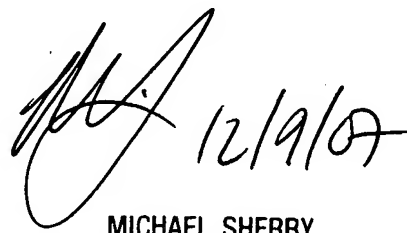
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal I. Kaplan whose telephone number is 571-272-8587. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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